

Regular Session, 2010

SENATE BILL NO. 100

BY SENATOR B. GAUTREAUX

PAROCHIAL EMPLOYEES RET. Provides for a five-year final average compensation period. (1/1/11)

1 AN ACT

2 To amend and reenact R.S. 11:1902(11) and (14), and 1938(J)(4)(a), relative to the Parochial
3 Employees' Retirement System; to provide for average compensation; to provide for
4 calculation of additional benefits following participation in the Deferred Retirement
5 Option Plan; to provide for definition of terms; to provide for implementation; to
6 provide for an effective date; and to provide for related matters.

7 Notice of intention to introduce this Act has been published.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 11:1902(11) and (14), and 1938(J)(4)(a) are hereby amended and
10 reenacted to read as follows:

11 §1902. Definitions

12 As used in this Chapter, the following words and phrases shall have the
13 following meanings, unless a different meaning is plainly required by context:

14 * * *

15 (11) "Earnings" shall mean the full rate of compensation paid to the member
16 ~~(employee); however, in computing the earnings of an employee for retirement~~
17 ~~purposes, the amount of overtime earnings to be used in the computation of earnings~~

1 cannot exceed the average amount of overtime earnings received for the six-year
2 period immediately preceding retirement. Earnings shall not include fees or
3 commissions. This definition shall supersede any contrary provisions in the general
4 retirement statutes regarding overtime computation, including that portion of R.S.
5 11:233(B), so that all overtime is included in this computation, regardless of whether
6 it was required to be worked in the employee's regular tour of duty.

7 * * *

8 (14)(a) "Final compensation", for members hired on or before December 31,
9 2006, means the average monthly earnings during the highest thirty-six consecutive
10 months or joined months if service was interrupted. The earnings to be considered
11 for the thirteenth through the twenty-fourth month shall not exceed one hundred
12 fifteen percent of the earnings of the first through the twelfth month. The earnings
13 to be considered for the final twelve months shall not exceed one hundred fifteen
14 percent of the earnings of the thirteenth through the twenty-fourth month.

15 (b) For members hired on or after January 1, 2007, "final compensation"
16 means the average monthly earnings during the sixty highest consecutive months of
17 employment or the sixty highest successive joined months of employment if
18 interruption of service occurred. The earnings to be considered for the thirteenth
19 through the twenty-fourth month shall not exceed one hundred fifteen percent of the
20 earnings for the first through the twelfth month. The earnings to be considered for
21 the twenty-fifth through the thirty-sixth month shall not exceed one hundred fifteen
22 percent of the earnings for the thirteenth through the twenty-fourth month. The
23 earnings to be considered for the thirty-seventh through the forty-eighth month shall
24 not exceed one hundred fifteen percent of the earnings for the twenty-fifth through
25 the thirty-sixth month. The earnings to be considered for the final twelve months
26 shall not exceed one hundred fifteen percent of the earnings for the thirty-seventh
27 through the forty-eighth month.

28 * * *

29 §1938. Deferred Retirement Option Plan

* * *

J.(1)

* * *

(4)(a) Also upon termination of employment, the monthly benefits which were being paid into the plan fund shall begin to be paid to the retiree and he shall receive an additional benefit based on his additional service rendered since termination of participation in the fund, using the normal method of computation of benefit, subject to the following:

(i) ~~For any member hired on or before December 31, 2006:~~

~~(aa)~~ If his period of additional service is less than ~~thirty-six~~ **sixty** months, the final compensation figure used to calculate the additional benefit shall be that used to calculate his original benefit.

~~(bb)~~ **(ii)** If his period of additional service is ~~thirty-six~~ **sixty** months or more, the final compensation figure used to calculate the additional benefit shall be based on his compensation during the period of additional service.

~~(ii)(aa) For any member hired on or after January 1, 2007, whose period of additional service is less than sixty months, the final compensation figure used to calculate the additional benefit shall be that used to calculate his original benefit.~~

~~(bb) For any member hired on or after January 1, 2007, whose period of additional service is sixty months or more, the final compensation figure used to calculate the additional benefit shall be based on his compensation during the period of additional service.~~

* * *

Section 2. This Act shall be implemented according to the provisions of this Section.

A. For transitional purposes, the provisions of R.S. 11:1902(11) and (14) shall be phased in as follows:

(1) For members retiring before January 1, 2011, the provisions of R.S. 11:1902(11) and (14) shall apply as they existed before the effective date of this Act.

(2) For those members retiring on or after January 1, 2011, and on or before December 31, 2012, the period used to calculate final compensation shall be thirty-

1 six months plus the number of whole reporting periods since January 1, 2011. Whole
2 reporting periods shall be either quarterly, monthly, or some other period consistent
3 with the employer's payroll practices as determined by the board of trustees.

4 (3) For the period beginning January 1, 2011, and ending in December 31,
5 2012, in computing earnings of an employee, the amount of overtime earnings to be
6 used in the computation of earnings shall not exceed the average amount of overtime
7 earnings received for the six-year period immediately preceding retirement.

8 B. For transitional purposes, the provisions of R.S. 11:1938(J)(4)(a) shall be
9 phased in as follows:

10 (1) For members entering the Deferred Retirement Option Plan before
11 January 1, 2013, the period of additional service needed to calculate a revised final
12 compensation for the post plan benefit shall be equal to the number of months used
13 to calculate the original benefit when the member entered the plan.

14 (2) For members entering the plan on or after January 1, 2013, the provisions
15 of R.S. 11:1938(J)(4)(a) shall apply as provided in this Act.

16 C. Notwithstanding any other provision of this Section to the contrary, the
17 final compensation expressed in dollars used to compute a member's benefit after the
18 effective date of this Act shall not be less than the dollar amount of the average
19 monthly earnings during the member's highest thirty-six consecutive months or
20 joined months of service earned for employment before the effective date of this Act
21 subject to adjustment for overtime earnings. The amount of overtime earnings to be
22 used in the computation of earnings shall not exceed the average amount of overtime
23 earnings received for the six-year period immediately preceding the effective date
24 of this Act.

25 Section 3. This Act shall become effective January 1, 2011; if vetoed by the governor
26 and subsequently approved by the legislature, this Act shall become effective on January 1,
27 2011, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lauren B. Bailey.

DIGEST

B. Gautreaux (SB 100)

Present law (R.S. 11:233) provides for the definition of "earnable compensation" for various statewide retirement systems including the Parochial Employees' Retirement System (PERS). Provides in pertinent part that for purposes of computation of average compensation, "earnable compensation" shall mean the full amount earned by an employee for a given period. Specifies in part that earnable compensation shall not include overtime unless it is required to be worked in the employee's regular tour of duty.

Present law retains present law.

Present law (R.S. 11:1902(11)) defines "earnings" for PERS. Provides that "earnings" shall mean the full rate of compensation paid to the member. Specifies, however, that in computing the earnings of an employee for retirement purposes, the amount of overtime earnings to be used in the computation of earnings shall not exceed the average amount of overtime earnings received for the six-year period immediately preceding retirement. Provides that earnings shall not include fees or commissions. Present law definition provides that it shall supersede any contrary provisions in the general retirement statutes regarding overtime computation, including present law R.S. 11:233(B), so that all overtime is included in the present law computation of "earnings," regardless of whether it was required to be worked in the employee's regular tour of duty.

Proposed law provides that "earnings" shall mean the full rate of compensation paid to the member. Deletes present law and allows overtime which was not required to be worked in the employee's regular tour of duty to be included in computation of "earnings."

Present law provides for a definition of "final compensation" based on the highest 36 consecutive months of pay. Provides that the earnings increase between 12-month periods during the 36 months shall not be more than 15%.

Proposed law provides for a definition of "final compensation" based on the highest 60 consecutive months for pay. Retains present law anti-spiking threshold of 15% and applies it to the 60 months.

Present law provides that a participant in the Deferred Retirement Option Plan (DROP) of PERS who continues in employment after plan participation shall receive an additional benefit based on the additional service rendered.

Proposed law retains present law.

Present law specifies that if the period of additional service is less than 36 months, the additional benefit shall be calculated using the final compensation amount used to calculate the original benefit. Provides that if the period of additional service is 36 months or more, the additional benefit shall be calculated using the final compensation during the period of additional service.

Proposed law retains present law but requires at least 60 months of additional service to be rendered before the additional benefit is calculated using the final compensation during the additional period of service.

Proposed law transition provisions provide relative to calculation of earned compensation. Provides that for members retiring on or after Jan. 1, 2011 and on or before Dec. 31, 2012, the period used to calculate final compensation shall be 36 months plus the number of whole

reporting periods since Jan. 1, 2011. Specifies that "whole reporting periods" shall be either quarterly, monthly, or some other period consistent with the employer's payroll practices as determined by the PERS board of trustees.

Proposed law provides for transition from present law to proposed law. Provides relative to calculation of post-DROP additional benefit. Specifies that for purposes of changes in the DROP provisions, a member entering DROP before Jan. 1, 2013, who remains in employment after participation in the plan shall have his additional benefit calculated based on his compensation during the period of additional service if his period of additional service is equal to or greater than the number of months used to calculate the original benefit when the member entered DROP. Specifies that DROP provisions in proposed law shall apply to members entering DROP on or after Jan. 1, 2013.

Proposed law transition provisions relative to computing of employee earnings specify that for the period beginning Jan. 1, 2011 and ending Dec. 31, 2011, the amount of overtime used in the computation of earnings shall not exceed the average amount of overtime earnings received for the six-year period immediately preceding retirement.

Proposed law transition provisions specify that notwithstanding the transition provisions of proposed law, the final compensation expressed in dollars used to compute a member's benefit after the effective date of proposed law shall not be less than the dollar amount of the average monthly earnings during the member's highest 36 consecutive months or joined months of service earned for employment before the effective date of proposed law.

Effective January 1, 2011.

(Amends R.S. 11:1902(11) and (14), and 1938(J)(4)(a))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill.

1. Technical amendments.